

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

YSAIAS ESPINOSA,

Plaintiff,

v.

PURE AIR FILTRATION, LLC
KEVIN JAMESON,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

CIVIL ACTION FILE

NO. _____

NOTICE OF REMOVAL

COME NOW, Defendants, PURE AIR FILTRATION, LLC AND KEVIN JAMESON (hereinafter “Defendants”), and within the time prescribed by law, file this Notice of Removal, by and through their undersigned counsel, pursuant to 28 U. S. C. §§ 1441 and 1446, and respectfully show the Court the following facts:

1.

Plaintiff Ysaías Espinosa (“Plaintiff”) filed suit against Defendants in the State Court of Gwinnett County, which county is within the Atlanta Division of this Court. The suit has been commenced as Gwinnett County State Court Civil Action File number 16C01715-S2.

2.

The suit seeks to recover for an allegation violation of the Fair Labor Standards Act “(FLSA”) set forth at 29 USC § 201 *et seq.*

3.

The Court has jurisdiction over this action under 28 U. S. C. § 1331 as it involves a federal question and, accordingly, is one which may be removed to this Court by Defendants pursuant to the provisions of 28 U. S. C. § 1441, in that the claim in this civil action involves a federal question.

4.

Defendants show that Plaintiff’s suit was filed on March 30, 2016 in the State Court of Gwinnett County and served upon Defendants on June 20, 2016. This Notice of Removal is filed within thirty (30) days from the date Defendants were served with the Summons and Complaint and is, therefore, proper under 28 USC § 1446.

7.

Defendants have attached hereto copies of all summons, process, pleadings, and orders served upon it in this case, such copies being marked Exhibit “A.”

8.

Defendants have given written notice of the filing of this Notice of Removal to the Plaintiff. Defendants have filed a written notice with the Clerk of the State Court of Gwinnett County, a copy of said notice is attached as Exhibit "B."

9.

WHEREFORE, Defendants pray the case proceed in this Court as a removed claim or cause of action under 28 U.S.C. § 1331 *et. seq.*

This 19th day of July, 2016.

Respectfully submitted,

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/ Anandhi S. Rajan
Anandhi S. Rajan
Georgia Bar No. 59760
Ashley D. Alfonso
Georgia State Bar No. 195484
**Attorney for Defendants Pure Air
Filtration, LLC and Kevin Jameson**

The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, Georgia 30309-3231
Telephone: (404) 874-8800
Facsimile: (404) 888-6199
Anandhi.rajan@swiftcurrie.com

ck288

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

YSAIAS ESPINOSA

CIVIL ACTION
NUMBER 16-C-01715-S2

PLAINTIFF

VS.

PURE AIR FILTRATION LLC
KEVIN JAMESON

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of Said Court and serve upon the Plaintiff's attorney,
whose name and address is:

BRIAN GENE KIM
1815 SATELLITE BLVD
SUITE 303
LEON & KIM LLC
DULUTH, GA 30097

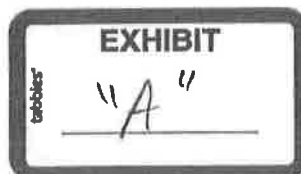
an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you,
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded
in the complaint.

This 30th day of March, 2016.

Richard T. Alexander, Jr.
Clerk of State Court

By: Keuseamark
Deputy Clerk

Instructions: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.
SC-1 Rev. 85



FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

2016 MAR 30 PH 1:03

YSAIAS ESPINOSA

Plaintiff,

v.

PURE AIR FILTRATION, LLC,
and KEVIN JAMESON

Defendants.

RICHARD ALEXANDER, CLERK

Civil Action No.: ~~16C~~ 01715-2

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

I. JURISDICTION AND VENUE

1.

This Court has personal jurisdiction of this action because the defendant Pure Air Filtration, LLC's principal place of business is within the Gwinnett County.

2.

Venue in the Gwinnett County is proper because Defendant Pure Air Filtration, LLC resides and/or conducts business in Gwinnett County and the claim for relief arose in this district.

3.

This Court has subject matter jurisdiction because this case is an action under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.* (FLSA), and federal court does not have exclusive jurisdiction over the FLSA.

II. PARTIES

PLAINTIFF

4.

The Plaintiff is Ysaías Espinosa, who is an individual and resident of DeKalb County,

Georgia.

5.

At all times relevant to this action Plaintiff was "engaged in commerce" and was an "employee" of Defendants within the meaning of FLSA, 29 U.S.C. §§ 203(e), 206, and 207.

DEFENDANTS

6.

The Defendant is Pure Air Filtration, LLC is a limited liability company. Defendant is located at 6050 Peachtree Parkway, Gwinnett County, Georgia 30092.

7.

The Defendant, Pure Air Filtration, LLC is and was at all times relevant to this action an "employer" within the meaning of FLSA, 29 U.S.C. § 203(d), an "enterprise" within the meaning of FLSA, 29 U.S.C. § 203(r), and "engaged in commerce" within the meaning of FLSA, 29 U.S.C. §§ 203(s)(1), 206, and 207.

8.

The Defendant, Kevin Jameson is an individual and the president of Pure Air Filtration, LLC.

III. FACTUAL ALLEGATIONS

9.

The Plaintiff adopts, incorporate by reference, and re-allege paragraphs 1 through 8 of this Complaint for Damages as if originally set forth fully herein.

10.

The Defendant Pure Air Filtration, LLC is and was at all times relevant to this action and

acted directly or indirectly as Plaintiff's employer.

11.

The Defendant, Kevin Jameson, as president of Pure Air Filtration, LLC, upon information and belief, asserts control over the operation and employment issues of Defendant, Pure Air Filtration, LLC.

12.

Upon information and belief Defendants have more than twenty (20) employees who handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce.

13.

Upon information and belief Defendants have gross revenues in excess of five hundred thousand dollars (\$500,000) per year.

14.

Plaintiff Ysaías Espinosa was employed as a machine/chemical operator by Defendants from February 2011 to July 2014.

15.

From on or about September 15, 2011 until July 15, 2014, Plaintiff Ysaías Espinosa worked for Defendants at an hourly rate of \$11.00 per hour.

16.

Plaintiff Ysaías Espinosa worked an average of sixty (60) hours per week from on or about February 1, 2011 until on or about July 31, 2014.

17.

Plaintiff had no written contract of employment with Defendants.

18.

At all relevant times to this action, Defendants did not pay Plaintiff on a salary basis. He was paid at his regular hourly rate for hours worked.

19.

Upon information and belief Defendants paid all of his employees, other than Plaintiff, overtime premiums.

IV.

CLAIMS FOR RELIEF

FAIR LABOR STANDARDS ACT

20.

The Plaintiff adopt, incorporate by reference, and re-allege paragraphs 1 through 8 and 10 through 19 of this Complaint for Damages as if originally set forth fully herein.

21.

At all times relevant to this action, Plaintiff was an hourly employee and was non-exempt from the overtime pay requirements as afforded by the FLSA, 29 U.S.C. §§ 201 et seq.

22.

The Plaintiff often worked in excess of fifty (50) hours per week throughout the duration of his employment with Defendants, but he was not paid by Defendants for his overtime work.

23.

The Defendants were required in accordance with the FLSA to pay Plaintiff one and one-half times his regular hourly rate of pay for his overtime work.

24.

The Defendants failed to pay Plaintiff one and one-half times his regular rate of pay for each hour worked over forty (40) hours in a week. Instead, Defendants only paid Plaintiff his regular hourly rate of pay for hours worked over forty (40) hours in a week.

25.

The Defendants' unlawful acts, omissions, and practices concerning the terms, conditions, and provisions of Plaintiff's employment violate the FLSA.

26.

As a result of Defendants' unlawful acts, omissions, and practices, Plaintiff Ysaías Espinosa suffered a loss of wages of \$15,180.00 or such other amount to be determined at trial.

27.

The Defendants' willful violation of the FLSA shows reckless disregard of Plaintiff's right to receive appropriate overtime compensation for his work for Defendant.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Grant Plaintiff a trial by jury as to all triable issues of fact;
2. Enter Judgment against Defendants, joint and severally liable for an amount equal to Plaintiff's unpaid back wages at the applicable overtime rate for each hour worked over forty (40) hours a week, or \$15,180.00 for Plaintiff Ysaías Espinosa, pursuant to the FLSA §§ 6 and 7, 29 U.S.C. §§ 206(d) and 207;
3. Enter Judgment against Defendants jointly and severally liable for an equal amount as mandated liquidated damages as provided by 29 U.S.C. § 216;
5. Enter Judgment against Defendants jointly and severally liable for pre-judgment interest

on the unpaid wages pursuant to 29 U.S.C. § 216;

6. Order Defendants, jointly and severally liable, to pay all costs of this action as well as reasonable attorney's fees as provided under FLSA § 216;

7. Award Plaintiff such further and additional relief as the Court deems just and equitable.

Respectfully submitted this 30th day of March, 2016.

Leon & Kim, LLC
Attorney for Plaintiff

/s/

Brian Kim

Georgia Bar No. 479330

1815 Satellite Blvd. #303
Duluth, GA 30097
P: 678-878-4200
F: 678-878-4208
E: Brian@leonandkim.com

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

General Civil Case Filing Information Form (Non-Domestic)

2016 MAR 30 PM 1:03

Court

☐ Superior☒ State

County

Gwinnett

Date Filed

03-30-2016

Docket #

16C 01715-2

MM-DD-YYYY RICHARD ALEXANDER, CLERK

Plaintiff(s)

Espinosa, Ysais

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. of Plaintiffs

1

Plaintiff/Petitioner's Attorney

☐ Pro SeKIM, BRIAN

Last First Middle I. Suffix

Bar #

479330

Defendant(s)

PURE AIR FILTRATION, LLC

Last First Middle I. Suffix Prefix Maiden

JAMESON, KEVIN

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. of Defendants

2

Check Primary Type (Check only ONE)

- ☐ Contract/Account
- ☐ Wills/Estate
- ☐ Real Property
- ☐ Dispossession/Distress
- ☐ Personal Property
- ☐ Equity
- ☐ Habeas Corpus
- ☐ Appeals, Reviews
- ☐ Post Judgement Garnishment, Attachment, or Other Relief
- ☐ Non-Domestic Contempt
- ☐ Tort (If tort, fill in right column)
- ☒ Other General Civil Specify FAIR LABOR
STANDARD ACT

If Tort is Case Type:

(Check no more than TWO)

- ☐ Auto Accident
- ☐ Premises Liability
- ☐ Medical Malpractice
- ☐ Other Professional Negligence
- ☐ Product Liability
- ☐ Other Specify _____

Are Punitive Damages Pleaded? ☐ Yes ☐ No

☒ I hereby certify that the documents in this filing (including attachments and exhibits) satisfy the requirements for redaction of personal or confidential information in O.C.G.A. 9-11-7.1

CIVIL ACTION NO. 16C 01715-2
 DATE FILED 3/30/16
 ATTORNEY OR PLAINTIFF(S), ADDRESS & TELEPHONE NUMBER

BRIAN KIM
1815 Satellite Blvd. #303
Duluth, GA 30097
(678) 878-4200
 NAME, ADDRESS & TELEPHONE # OF PARTY TO BE SERVED

Kevin Jameson
AS AGENT OF PURE AIR FILTRATION, LLC
6050 Peachtree Pkwy. #240-187
Norcross, GA 30097
(678) 935-1431
 GARNISHEE

[] MAGISTRATE [] STATE [] SUPERIOR - COURT
 GWINNETT COUNTY, GEORGIA

Ysajas Espinosa
 PLAINTIFF(S)
 VS.
Pure Air Filtration, LLC
Kevin Jameson
 DEFENDANT(S)

GARNISHEE

Other attached documents to be served:

2016 MAR 31 AM 10:32
 RECEIVED
 CIVIL DIV.
 G.C.S.O.

SHERIFF'S ENTRY OF SERVICE

I HAVE THIS DAY SERVED THE WITHIN ACTION AND SUMMONS AS FOLLOWS:

[] PERSONAL Upon the following named defendant:

[] NOTORIOUS Upon defendant

By leaving a copy of the action and summons at the most notorious place of abode in the county.

Delivered the same to _____ described as follows: approximate age _____
 yrs; approximate weight _____ pounds; approximate height _____ feet and _____ inches, domiciled at residence of the defendant.

[] CORPORATION Upon corporation

By serving _____, in charge of the office and
 place of business of the corporation in this county.

By serving _____, its registered agent.

[] TACK & MAIL By posting a copy of the same to the door of the premises designated in the affidavit and/or summons, and on the same day of such posting, by depositing a true copy of the same in the United States mail First Class mail, in an envelope properly addressed to the defendant(s) at the address shown in the summons, containing adequate notice to the defendant(s) to answer said summons at the place stated in the summons.

[] NON EST Did not serve because after a diligent search the defendant could not be found in the jurisdiction of the court.

Kevin Jameson - address above is a P.O. Box
Unable to locate Def @ this address

This 7 day of April, 2016.

SHERIFF DOCKET _____ PAGE _____

TIME: 10:10 A. M.

J. Bowen J. Bowen 5033
 DEPUTY

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

YSAIAS ESPINOSA

CIVIL ACTION
NUMBER 16-C-01715-S2

PLAINTIFF

VS.

PURE AIR FILTRATION LLC
KEVIN JAMESON

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of Said Court and serve upon the Plaintiff's attorney,
whose name and address is:

BRIAN GENE KIM
1815 SATELLITE BLVD
SUITE 303
LEON & KIM LLC
DULUTH, GA 30097

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you,
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded
in the complaint.

This 13th day of June, 2016.

Richard T. Alexander, Jr.
Clerk of State Court

By: 

Deputy Clerk

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

2016 JUL 19 PM 12:18

IN THE STATE COURT OF GWINNETT COUNTY

RICHARD ALEXANDER, CLERK

STATE OF GEORGIA

YSAIAS ESPINOSA,

Plaintiff,

v.

PURE AIR FILTRATION, LLC

KEVIN JAMESON,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

CIVIL ACTION FILE

NO. 16-C-01715-S2

**DEFENDANTS' ANSWER AND DEFENSES TO
PLAINTIFF'S COMPLAINT FOR DAMAGES**

**COME NOW DEFENDANTS PURE AIR FILTRATION, LLC and
KEVIN JAMESON ("Defendants")** by and through their counsel, and file their
Answer and Defenses to Plaintiff's Complaint for Damages, showing the Court as
follows:

FIRST DEFENSE

Plaintiff's Complaint for Damages fails to state a claim upon which relief
can be granted.

SECOND DEFENSE

Plaintiff has failed to plead a *prima facie* case arising under the FLSA.

THIRD DEFENSE

Any recovery by Plaintiff should be limited to the extent Plaintiff has failed to mitigate any of the damages alleged in the Complaint.

FOURTH DEFENSE

All or part of Plaintiff's claims are or may be barred by the applicable statutes of limitations.

FIFTH DEFENSE

Plaintiff's claims are barred, in whole or in part, because Plaintiff cannot establish that any acts or omissions of Defendants were willful under the FLSA.

SIXTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrines of waiver, estoppel, unclean hands, and laches.

SEVENTH DEFENSE

Plaintiff's claims under the FLSA are barred to the extent that Defendants' actions were taken in good faith in conformity with and reliance upon established rulings, administrative regulations, and interpretations of the FLSA within the meaning of 29 U.S.C. § 259 and 29 U.S.C. § 260.

EIGHTH DEFENSE

Plaintiff is seeking damages that are remote and speculative, and as such, those damages are not recoverable.

NINTH DEFENSE

Plaintiff's Complaint for Damages may be barred on the grounds of res judicata and collateral estoppel.

TENTH DEFENSE

Plaintiff's claim should be barred because the amount of overtime, if any, is de minimis.

ELEVENTH DEFENSE

Defendants respond to the individually numbered paragraphs of Plaintiff's Complaint for Damages, as follows:

I. JURISDICTION AND VENUE

1.

Defendants admit the allegations set forth in Paragraph 1 of Plaintiff's Complaint for Damages.

2.

Defendants admit the allegations set forth in Paragraph 2 of Plaintiff's Complaint for Damages.

3.

Defendants admit the allegations set forth in Paragraph 3 of Plaintiff's Complaint for Damages.

II. PARTIES

PLAINTIFF

4.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4 of Plaintiff's Complaint for Damages and can, therefore, neither admit nor deny said allegations.

5.

Defendants admit the allegations set forth in Paragraph 5 of Plaintiff's Complaint for Damages.

DEFENDANTS

6.

Defendants admit the allegations set forth in Paragraph 6 of Plaintiff's Complaint for Damages.

7.

Defendants admit the allegations set forth in Paragraph 7 of Plaintiff's Complaint for Damages.

8.

Defendants deny, as stated, the allegations set forth in Paragraph 8 of Plaintiff's Complaint for Damages.

III. FACTUAL ALLEGATIONS

9.

Defendants incorporate herein by reference their responses to Paragraphs 1 through 8 hereinabove, as if set forth fully herein in response to Paragraph 9 of Plaintiff's Complaint for Damages.

10.

Defendants admit the allegations set forth in Paragraph 10 of Plaintiff's Complaint for Damages.

11.

Defendants, deny, as stated the allegations set forth in Paragraph 11 of Plaintiff's Complaint for Damages.

12.

Defendants deny the allegations set forth in Paragraph 12 of Plaintiff's Complaint for Damages.

13.

Defendants deny, as stated, the allegations set forth in Paragraph 13 of

Plaintiff's Complaint for Damages.

14.

Defendants deny, as stated, the allegations set forth in Paragraph 14 of Plaintiff's Complaint for Damages.

15.

Defendants deny the allegations set forth in Paragraph 15 of Plaintiff's Complaint for Damages.

16.

Defendants deny the allegations set forth in Paragraph 16 of Plaintiff's Complaint for Damages.

17.

Defendants admit the allegations set forth in Paragraph 17 of Plaintiff's Complaint for Damages.

18.

Defendants admit the allegations set forth in Paragraph 18 of Plaintiff's Complaint for Damages.

19.

Defendants deny, as stated, the allegations set forth in Paragraph 19 of Plaintiff's Complaint for Damages.

IV.

CLAIMS FOR RELIEF

FAIR LABOR STANDARDS ACT

20.

Defendant incorporates herein by reference its responses to Paragraphs 1 through 19 hereinabove, as if set forth fully herein in response to Paragraph 20 of Plaintiff's Complaint for Damages.

21.

Defendants admit the allegations set forth in Paragraph 21 of Plaintiff's Complaint for Damages.

22.

Defendants deny the allegations set forth in Paragraph 22 of Plaintiff's Complaint for Damages.

23.

Defendants deny, as stated, the allegations set forth in Paragraph 23 of Plaintiff's Complaint for Damages but admit that the FLSA requires overtime work to be compensated at a rate of one and a half times the regular hourly wage, if applicable.

24.

Defendants deny, as stated, the allegations set forth in Paragraph 24 of Plaintiff's Complaint for Damages.

25.

Defendants deny the allegations set forth in Paragraph 25 of Plaintiff's Complaint for Damages.

26.

Defendants deny the allegations set forth in Paragraph 26 of Plaintiff's Complaint for Damages.

27.

Defendants deny the allegations set forth in Paragraph 27 of Plaintiff's Complaint for Damages.

VI. PRAYER FOR RELIEF

28.

Responding to the last paragraph and Prayer for Relief beginning "WHEREFORE", Defendants deny all allegations of that Paragraph, including subparagraphs 1 through 7, and deny they are liable to Plaintiff in any sum or manner whatsoever.

To the extent any allegation within Plaintiff's Complaint for Damages is not heretofore admitted or denied, each and every such allegation is hereby denied.

WHEREFORE, having fully answered Plaintiff's Complaint for Damages, Defendants pray:

- (a) that they be discharged without any liability to Plaintiff;
- (b) that they have a trial by jury as to all issues properly triable by a jury;
- (c) that all costs be assessed against Plaintiff; and
- (d) that they obtain such other relief as this Court deems just and appropriate.

This 19th day of July, 2016.

Respectfully submitted,

By: /s/Anandhi S. Rajan

Anandhi S. Rajan

Georgia State Bar No. 592760

Ashley D. Alfonso

Georgia State Bar No. 195484

Attorneys for Defendants

PURE AIR FILTRATION, LLC and

KEVIN JAMESON

SWIFT, CURRIE, McGHEE & HIERS, LLP

The Peachtree, Suite 300

1355 Peachtree Street, N.E.

Atlanta, Georgia 30309-3231

Telephone: (404) 874-8800

Facsimile: (404) 888-6199

Anandhi.Rajan@swiftcurrie.com

CERTIFICATE OF SERVICE

I do hereby certify that I caused a true and correct copy of the *Defendants'*
Answer and Defenses to Plaintiff's Complaint for Damages to be served upon all
parties through the following counsel of record:

Brian Kim, Esq.
Leon & Kim, LLC
1815 Satellite Boulevard, Suite 303
Duluth, GA 30097

This 19th day of July, 2016.

By: /s/Anandhi S. Rajan
Anandhi S. Rajan
Georgia State Bar No. 592760
Attorneys for Defendants
PURE AIR FILTRATION, LLC and
KEVIN JAMESON

SWIFT, CURRIE, MCGHEE & HIERS, LLP
The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, Georgia 30309-3231
Telephone: (404) 874-8800
Facsimile: (404) 888-6199
Anandhi.Rajan@swiftcurrie.com

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

2016 JUL 19 PM 12:18

RICHARD ALEXANDER, CLERK

YSAIAS ESPINOSA,

Plaintiff,

v.

PURE AIR FILTRATION, LLC

KEVIN JAMESON,

Defendants.

CIVIL ACTION FILE

NO. 16C-01715-2

NOTICE OF FILING NOTICE OF REMOVAL

COME NOW Defendants Pure Air Filtration, LLC and Kevin Jameson and hereby, pursuant to 28 U.S.C. § 1446(d), file this its Notice of Filing Notice of Removal of this action from the State Court of Gwinnett County, Georgia, wherein it now pends, to the District Court of the United States for the Northern District of Georgia, Atlanta Division. The grounds for this removal are set forth in the Notice of Removal attached hereto as Exhibit "A."

This 19th day of July, 2016.

SWIFT, CURRIE, MCGHEE & HIERS, LLP

By:

Anandhi S. Rajan

Anandhi S. Rajan

Georgia State Bar No. 592760

1355 Peachtree Street, N.E.



Suite 300

Atlanta, Georgia 30309

(404) 874-8800

Attorneys for Defendants Pure Air Filtration,
LLC and Kevin Jameson

2.

The suit seeks to recover for an allegation violation of the Fair Labor Standards Act “(FLSA”) set forth at 29 USC § 201 *et seq.*

3.

The Court has jurisdiction over this action under 28 U. S. C. § 1331 as it involves a federal question and, accordingly, is one which may be removed to this Court by Defendants pursuant to the provisions of 28 U. S. C. § 1441, in that the claim in this civil action involves a federal question.

4.

Defendants show that Plaintiff’s suit was filed on March 30, 2016 in the State Court of Gwinnett County and served upon Defendants on June 20, 2016. This Notice of Removal is filed within thirty (30) days from the date Defendants were served with the Summons and Complaint and is, therefore, proper under 28 USC § 1446.

7.

Defendants have attached hereto copies of all summons, process, pleadings, and orders served upon it in this case, such copies being marked Exhibit “A.”

8.

Defendants have given written notice of the filing of this Notice of Removal to the Plaintiff. Defendants have filed a written notice with the Clerk of the State Court of Gwinnett County, a copy of said notice is attached as Exhibit "B."

9.

WHEREFORE, Defendants pray the case proceed in this Court as a removed claim or cause of action under 28 U.S.C. § 1331 *et. seq.*

This 19th day of July, 2016.

Respectfully submitted,

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/ Anandhi S. Rajan
Anandhi S. Rajan
Georgia Bar No. 59760
Ashley D. Alfonso
Georgia State Bar No. 195484
**Attorney for Defendants Pure Air
Filtration, LLC and Kevin Jameson**

The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, Georgia 30309-3231
Telephone: (404) 874-8800
Facsimile: (404) 888-6199
Anandhi.rajan@swiftcurrie.com

CK288

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

YSAIAS ESPINOSA

CIVIL ACTION
NUMBER 16-C-01715-S2

PLAINTIFF

VS.

PURE AIR FILTRATION LLC
KEVIN JAMESON

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of Said Court and serve upon the Plaintiff's attorney,
whose name and address is:

BRIAN GENE KIM
1815 SATELLITE BLVD
SUITE 303
LEON & KIM LLC
DULUTH, GA 30097

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you,
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded
in the complaint.

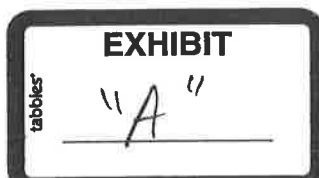
This 30th day of March, 2016.

Richard T. Alexander, Jr.
Clerk of State Court

By: 
Deputy Clerk

Instructions: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

SC-1 Rev. 85



FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA 201

2016 MAR 30 PM 1:03

YSAIAS ESPINOSA

Plaintiff,

 \mathbf{V}_i

**PURE AIR FILTRATION, LLC,
and KEVIN JAMESON**

Defendants.

RICHARD ALEXANDER, CLERK

Civil Action No.: ~~16C~~ 01715-2

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

I. JURISDICTION AND VENUE

1.

This Court has personal jurisdiction of this action because the defendant Pure Air Filtration, LLC's principal place of business is within the Gwinnett County.

2.

Venue in the Gwinnett County is proper because Defendant Pure Air Filtration, LLC resides and/or conducts business in Gwinnett County and the claim for relief arose in this district.

3.

This Court has subject matter jurisdiction because this case is an action under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.* (FLSA), and federal court does not have exclusive jurisdiction over the FLSA.

II. PARTIES

PLAINTIFF

4.

The Plaintiff is Ysaías Espinosa, who is an individual and resident of DeKalb County,

Georgia.

5.

At all times relevant to this action Plaintiff was “engaged in commerce” and was an “employee” of Defendants within the meaning of FLSA, 29 U.S.C. §§ 203(e), 206, and 207.

DEFENDANTS

6.

The Defendant is Pure Air Filtration, LLC is a limited liability company. Defendant is located at 6050 Peachtree Parkway, Gwinnett County, Georgia 30092.

7.

The Defendant, Pure Air Filtration, LLC is and was at all times relevant to this action an “employer” within the meaning of FLSA, 29 U.S.C. § 203(d), an “enterprise” within the meaning of FLSA, 29 U.S.C. § 203(r), and “engaged in commerce” within the meaning of FLSA, 29 U.S.C. §§ 203(s)(1), 206, and 207.

8.

The Defendant, Kevin Jameson is an individual and the president of Pure Air Filtration, LLC.

III. FACTUAL ALLEGATIONS

9.

The Plaintiff adopts, incorporate by reference, and re-allege paragraphs 1 through 8 of this Complaint for Damages as if originally set forth fully herein.

10.

The Defendant Pure Air Filtration, LLC is and was at all times relevant to this action and

acted directly or indirectly as Plaintiff's employer.

11.

The Defendant, Kevin Jameson, as president of Pure Air Filtration, LLC, upon information and belief, asserts control over the operation and employment issues of Defendant, Pure Air Filtration, LLC.

12.

Upon information and belief Defendants have more than twenty (20) employees who handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce.

13.

Upon information and belief Defendants have gross revenues in excess of five hundred thousand dollars (\$500,000) per year.

14.

Plaintiff Ysaías Espinosa was employed as a machine/chemical operator by Defendants from February 2011 to July 2014.

15.

From on or about September 15, 2011 until July 15, 2014, Plaintiff Ysaías Espinosa worked for Defendants at an hourly rate of \$11.00 per hour.

16.

Plaintiff Ysaías Espinosa worked an average of sixty (60) hours per week from on or about February 1, 2011 until on or about July 31, 2014.

17.

Plaintiff had no written contract of employment with Defendants.

18.

At all relevant times to this action, Defendants did not pay Plaintiff on a salary basis. He was paid at his regular hourly rate for hours worked.

19.

Upon information and belief Defendants paid all of his employees, other than Plaintiff, overtime premiums.

IV.

CLAIMS FOR RELIEF

FAIR LABOR STANDARDS ACT

20.

The Plaintiff adopt, incorporate by reference, and re-allege paragraphs 1 through 8 and 10 through 19 of this Complaint for Damages as if originally set forth fully herein.

21.

At all times relevant to this action, Plaintiff was an hourly employee and was non-exempt from the overtime pay requirements as afforded by the FLSA, 29 U.S.C. §§ 201 et seq.

22.

The Plaintiff often worked in excess of fifty (50) hours per week throughout the duration of his employment with Defendants, but he was not paid by Defendants for his overtime work.

23.

The Defendants were required in accordance with the FLSA to pay Plaintiff one and one-half times his regular hourly rate of pay for his overtime work.

24.

The Defendants failed to pay Plaintiff one and one-half times his regular rate of pay for each hour worked over forty (40) hours in a week. Instead, Defendants only paid Plaintiff his regular hourly rate of pay for hours worked over forty (40) hours in a week.

25.

The Defendants' unlawful acts, omissions, and practices concerning the terms, conditions, and provisions of Plaintiff's employment violate the FLSA.

26.

As a result of Defendants' unlawful acts, omissions, and practices, Plaintiff Ysaías Espinosa suffered a loss of wages of \$15,180.00 or such other amount to be determined at trial.

27.

The Defendants' willful violation of the FLSA shows reckless disregard of Plaintiff's right to receive appropriate overtime compensation for his work for Defendant.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Grant Plaintiff a trial by jury as to all triable issues of fact;
2. Enter Judgment against Defendants, joint and severally liable for an amount equal to Plaintiff's unpaid back wages at the applicable overtime rate for each hour worked over forty (40) hours a week, or \$15,180.00 for Plaintiff Ysaías Espinosa, pursuant to the FLSA §§ 6 and 7, 29 U.S.C. §§ 206(d) and 207;
3. Enter Judgment against Defendants jointly and severally liable for an equal amount as mandated liquidated damages as provided by 29 U.S.C. § 216;
5. Enter Judgment against Defendants jointly and severally liable for pre-judgment interest

on the unpaid wages pursuant to 29 U.S.C. § 216;

6. Order Defendants, jointly and severally liable, to pay all costs of this action as well as reasonable attorney's fees as provided under FLSA § 216;

7. Award Plaintiff such further and additional relief as the Court deems just and equitable.

Respectfully submitted this 30th day of March, 2016.

Leon & Kim, LLC
Attorney for Plaintiff

/s/

Brian Kim

Georgia Bar No. 479330

1815 Satellite Blvd. #303
Duluth, GA 30097
P: 678-878-4200
F: 678-878-4208
E: Brian@leonandkim.com

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

General Civil Case Filing Information Form (Non-Domestic)

2016 MAR 30 PM 1:03

Court

☐ Superior
☒ State

County

Gwinnett

Date Filed

03-30-2016

Docket #

16C 01715-2

MM-DD-YYYY RICHARD ALEXANDER, CLERK

Plaintiff(s)

Espinosa, YSAIAS
Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. of Plaintiffs 1

Plaintiff/Petitioner's Attorney

☐ Pro SeKIM, BRIAN
Last First Middle I. SuffixBar # 479330

Defendant(s)

PURE AIR FILTRATION, LLC
Last First Middle I. Suffix Prefix MaidenJAMESON, KEVIN
Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. of Defendants 2

Check Primary Type (Check only ONE)

- ☐ Contract/Account
- ☐ Wills/Estate
- ☐ Real Property
- ☐ Dispossession/Distress
- ☐ Personal Property
- ☐ Equity
- ☐ Habeas Corpus
- ☐ Appeals, Reviews
- ☐ Post Judgement Garnishment, Attachment, or Other Relief
- ☐ Non-Domestic Contempt
- ☐ Tort (If tort, fill in right column)
- ☒ Other General Civil Specify FAIR LABOR

STANDARD ACTIf Tort is Case Type:
(Check no more than TWO)

- ☐ Auto Accident
- ☐ Premises Liability
- ☐ Medical Malpractice
- ☐ Other Professional Negligence
- ☐ Product Liability
- ☐ Other Specify _____

Are Punitive Damages Pleaded? ☐ Yes ☐ No

☒ I hereby certify that the documents in this filing (including attachments and exhibits) satisfy the requirements for redaction of personal or confidential information in O.C.G.A. 9-11-7.1

CIVIL ACTION NO.

16C 01715-2

DATE FILED

3/30/16

ATTORNEY OR PLAINTIFF(S), ADDRESS & TELEPHONE NUMBER

BRIAN KIM

1815 Satellite Blvd. # 303

Duluth, GA 30097

(678) 878-4200

NAME, ADDRESS & TELEPHONE # OF PARTY TO BE SERVED

Kevin Jameson

AS AGENT OF PURE AIR FILTRATION CO.

6050 Peachtree Pkwy. #240 - 187

Norcross, GA 30092

(678) 935-1431

[] MAGISTRATE [] STATE [] SUPERIOR - COURT
GWINNETT COUNTY, GEORGIA

Ysajas Espinosa

PLAINTIFF(S)

VS.

Pure Air Filtration, LLC

Kevin Jameson

DEFENDANT(S)

RECEIVED

2016 MAR 31 AM 10:32

CIVIL DIV.
G.C.S.O.

GARNISHEE

Other attached documents to be served:

SHERIFF'S ENTRY OF SERVICE

I HAVE THIS DAY SERVED THE WITHIN ACTION AND SUMMONS AS FOLLOWS:

[] PERSONAL Upon the following named defendant:

[] NOTORIOUS Upon defendant

By leaving a copy of the action and summons at the most notorious place of abode in the county.

Delivered the same to _____ described as follows: approximate age

yrs; approximate weight _____ pounds; approximate height _____ feet and _____ inches, domiciled at residence of the defendant.

[] CORPORATION Upon corporation

By serving _____, in charge of the office and place of business of the corporation in this county.

By serving _____, its registered agent.

[] TACK & MAIL By posting a copy of the same to the door of the premises designated in the affidavit and/or summons and on the same day of such posting, by depositing a true copy of the same in the United States mail First Class mail, in an envelope properly addressed to the defendant(s) at the address shown in the summons, containing adequate notice to the defendant(s) to answer said summons at the place stated in the summons.

[X] NON EST Did not serve because after a diligent search the defendant could not be found in the jurisdiction of the court.

Kevin Jameson - address above is a P.O. Box.

Unable to locate Def @ this address

This 1 day of April, 2016.

SHERIFF DOCKET _____ PAGE _____

TIME: 1010 A.M.

DEPUTY

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

YSAIAS ESPINOSA

CIVIL ACTION
NUMBER 16-C-01715-S2

PLAINTIFF

VS.

PURE AIR FILTRATION LLC
KEVIN JAMESON

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of Said Court and serve upon the Plaintiff's attorney, whose name and address is:

BRIAN GENE KIM
1815 SATELLITE BLVD
SUITE 303
LEON & KIM LLC
DULUTH, GA 30097

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 13th day of June, 2016.

Richard T. Alexander, Jr.
Clerk of State Court

By: 

Deputy Clerk

7.1 CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1D of the Northern District of Georgia, I hereby certify that this document was prepared in Times New Roman font, 14 point, pursuant to L.R. 5.1(C).

This 19th day of July, 2016.

By: /s/Anandhi S. Rajan

Anandhi S. Rajan

Georgia State Bar No. 592760

**Attorneys for Defendants Pure Air
Filtration, LLC and Kevin Jameson**

SWIFT, CURRIE, MCGHEE & HIERS, LLP

The Peachtree, Suite 300

1355 Peachtree Street, N.E.

Atlanta, Georgia 30309-3231

Telephone: (404) 874-8800

Facsimile: (404) 888-6199

Anandhi.Rajan@swiftcurrie.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of the within and foregoing **NOTICE OF REMOVAL** to be filed with the Clerk of Court via the ECF filing procedure, which will notify and serve a copy of same to the following counsel of record, as follows:

Brian Kim, Esq.
Leon & Kim, LLC
1815 Satellite Boulevard, Suite 303
Duluth, GA 30097

This 19th day of July, 2016.

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/Anandhi S. Rajan
ANANDHI S. RAJAN
Georgia State Bar No. 592760
**Attorney for Defendants Pure Air
Filtration, LLC and Kevin Jameson**

The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, GA 30309-3231
(404) 874-8800

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing
NOTICE OF FILING NOTICE OF REMOVAL upon all counsel of record in this
action, via U.S. Mail, postage pre-paid, and addressed as follows:

Brian Kim, Esq.
Leon & Kim, LLC
1815 Satellite Boulevard, Suite 303
Duluth, GA 30097

This 19th day of July, 2016.

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/Anandhi S. Rajan
ANANDHI S. RAJAN
Georgia State Bar No. 592760
**Attorney for Defendants Pure Air
Filtration, LLC and Kevin Jameson**

The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, GA 30309-3231
(404) 874-8800

7.1 CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1D of the Northern District of Georgia, I hereby certify that this document was prepared in Times New Roman font, 14 point, pursuant to L.R. 5.1(C).

This 19th day of July, 2016.

By: /s/Anandhi S. Rajan

Anandhi S. Rajan

Georgia State Bar No. 592760

**Attorneys for Defendants Pure Air
Filtration, LLC and Kevin Jameson**

SWIFT, CURRIE, McGHEE & HIERS, LLP

The Peachtree, Suite 300

1355 Peachtree Street, N.E.

Atlanta, Georgia 30309-3231

Telephone: (404) 874-8800

Facsimile: (404) 888-6199

Anandhi.Rajan@swiftcurrie.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of the within and foregoing **NOTICE OF REMOVAL** to be filed with the Clerk of Court via the ECF filing procedure, which will notify and serve a copy of same to the following counsel of record, as follows:

Brian Kim, Esq.
Leon & Kim, LLC
1815 Satellite Boulevard, Suite 303
Duluth, GA 30097

This 19th day of July, 2016.

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/Anandhi S. Rajan
ANANDHI S. RAJAN
Georgia State Bar No. 592760
**Attorney for Defendants Pure Air
Filtration, LLC and Kevin Jameson**

The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, GA 30309-3231
(404) 874-8800